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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/878,396	06/18/97	PAYNE	A 06543/008002

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EXAMINER

GREGORY, B

ART UNIT

2766

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2

DATE MAILED:

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/878,396

Applicant(s)
Andrew C. Payne et al.

Examiner
Bernarr Earl Gregory

Group Art Unit
2766



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three (3) month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-12 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-12 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-2 and 4-12 are rejected under 35 U.S.C. 102(a) as being anticipated by the Internet Commerce Site Amazon.com as mentioned in the "Welcome first-time visitors" section of Amazon.com.

For the purposes of this rejection, the following basic information is presented.

Amazon.com has been operating since 1994. Amazon.com sells books and musical recordings. The transactions are conducted by a hyperlinked Internet connection. Activation of various hyperlinked items on the Screen of the customer lead to subject search areas and to advertisements along with ordering information for books sold. Upon receipt of an order through the Internet hyperlinked connection, Amazon.com sends an e-mail confirmation to the customer to confirm e-mail address, items ordered (along with stock numbers), shipping address, shipping method, and total cost of the order. Order forms for Amazon.com are available on-line.

The "merchant computer" may be read as the Amazon.com Internet server itself. Certainly, Amazon.com has additional computers besides the server. The additional computer(s) at the Amazon.com for administrative/managerial functions may be read as the "creation computer." For example, certainly one would not create new advertisements directly on the server itself. This would be done by an additional computer from which the advertisements would

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be loaded onto the server. Claim 1 calls this transmitting. The term "product fulfillment items" may be read as being any data critical for the identification of ordered data when the customer purchases (e.g., stock numbers, SKU numbers, etc.). It is noted that a variety of numbers may be used to identify the same item depending upon whether the item is offered at full price or at a sale price. These are routinely updated depending upon when sales are run.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Internet Commerce Site Amazon.com as mentioned in the "Welcome first-time visitors" section of Amazon.com.

Claim 3 is read to mean the purchase of data or software over a network, which is old and well-known in the art. Amazon.com is not known by the Examiner to sell software or data over the Internet. It would have been obvious to one of ordinary skill-in-the-art that an Internet commerce site such as Amazon.com could deliver data or software over the Internet, as is old and well-known for the well-known advantages of decreased cost, increased profits, and increased efficiency. It is further noted that it is common for conventional booksellers to offer software; so, it would have been obvious to one of ordinary skill-in-the-art that Amazon.com could have

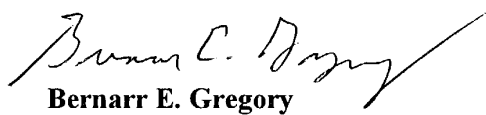
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offered software and could have offered it in the most modern and efficient way of delivery, over the Internet.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kato (Japanese Patent Publication 4-10191) is of particular interest in showing the selling of software through a computer network. Cameron et al (U.S. Patent 5,592,378); Doyle et al (U.S. Patent 5,694,551); Brown et al (U.S. Patent 4,972,318); and, King, Jr. et al (U.S. Patent 5,319,542) are all of interest for showing systems that are similar to Applicants' invention.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernarr Gregory whose telephone number is (703) 306-4153.


Bernarr E. Gregory
Primary Examiner
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June 30, 1998